

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et
al.*,

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

PUERTO RICO SALES TAX FINANCING
CORPORATION,

Debtor.

**GMS GROUP LLC'S RESPONSE TO PUERTO RICO SALES TAX FINANCING
CORPORATION'S FIRST SET OF INTERROGATORIES TO THE GMS GROUP, LLC**

Pursuant to the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedures, both made applicable to this contested matter pursuant to Section 310 of the *Puerto Rico Oversight, Management, and Economic Stability Act*, codified at 48 U.S.C. §§ 2101-2241 ("PROMESA"), the Local Rules for of the United States District Court for the District of Puerto Rico, the Local Rules of the United States Bankruptcy Court for the District of Puerto Rico, and

¹ The Debtors in these Title III Cases, along with each Debtor's respective title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

any other applicable rules (altogether, the “Rules”), GMS Group, LLC (“GMS”) hereby responds to Puerto Rico Sales Tax Financing Corporation (“COFINA”)’s First Set of Interrogatories to the GMS Group, LLC (the “Interrogatories”).

The objections and responses (the “Responses”) are based upon GMS’s present knowledge, information, and belief. Discovery is ongoing, and GMS reserves any and all rights to amend, supplement, or otherwise correct the Responses as necessary. GMS’s failure to object to an Interrogatory on any particular ground does not waive, or intend to waive, the right to object on that ground or any additional ground. Except where expressly stated in the affirmative, nothing in the Responses shall be construed as an admission by GMS as to the relevancy, admissibility, or truth of any information sought by the Interrogatories. Furthermore, the Responses are provided exclusively and solely for this action. GMS reserves any and all rights, in this action or any other proceeding, to challenge the competency, relevancy, materiality, truth and admissibility of any documents or information provided in response to the Interrogatories.

GENERAL OBJECTIONS

The following general objections (“General Objections”) apply to each and every Interrogatory and are incorporated by reference into each specific objection and Response set forth below. The assertion of the same, similar or additional objections, and the provision of answers (in whole or in part), does not waive, or intend to waive, any objection.

1. GMS objects to these Interrogatories to the extent they seek to impose obligations and procedures beyond those set forth in the Rules.
2. GMS objects to the Interrogatories to the extent they seek information protected by the attorney-client privilege, work product doctrine, or other applicable privilege or immunity from discovery (collectively, “Privileged Information”). The disclosure of any Privileged Information by GMS is unintentional, and any such inadvertent disclosure shall not be construed as a waiver of any applicable privilege or discovery.
3. GMS objects to these Interrogatories to the extent they are overly broad, unduly burdensome, vague, confusing, or ambiguous.

4. GMS objects to these Interrogatories to the extent they seek information not reasonably calculated to lead to the discovery of admissible evidence under Federal Rule of Civil Procedure 26 or Federal Rule of Bankruptcy Procedure 7026. GMS also objects to the Interrogatories to the extent that they would require GMS to speculate as to the nature and scope of the information sought.

5. GMS objects to these Interrogatories to the extent that they are not temporally limited.

6. GMS objects to these Interrogatories to the extent that they are burdensome and oppressive and require the production of information that requires undue effort and expense on the part of GMS. The Responses are based on reasonable and diligent investigation and examination by GMS and its counsel.

7. GMS objects to these Interrogatories to the extent that seek a high level of detail that is overly burdensome and impractical for use in a discovery device such as an Interrogatory.

8. GMS expressly reserves (a) all objections to the competency, relevance, materiality, and/or admissibility of its responses; and (b) the right to revise, correct, supplement or clarify its responses as necessary.

9. GMS objects to the Interrogatories to the extent that they purport to require the disclosure of information that COFINA, its attorneys, or its other agents already possess.

RESPONSES TO INTERROGATORIES

1. With respect to each series of COFINA Bonds held by, on behalf of, or for the benefit of GMS, or held by GMS on behalf of, or for the benefit of, GMS's clients as of December 26, 2018: (i) set forth the CUSIP number, principal amount of each series of COFINA Bonds, and the date(s) on which each such COFINA Bonds were acquired, at what price, and Identify any Document Concerning such acquisition, and (ii) Identify each Person with possession of any such COFINA Bonds.

RESPONSE: See Spreadsheet, attached hereto as **Exhibit A**. GSP objects to disclosing the identity of any client but has propounded partial account numbers for each account. When

known, GMS has provided information regarding the date and price of acquisition for each COFINA Bond. (e.g., some acquisitions of bonds may have been made by clients prior to the account openings, and GMS has no knowledge of the dates and prices of such acquisitions.)

2. With respect to each series of Puerto Rico Securities held by, on behalf of, or for the benefit of GMS, or held by GMS on behalf of, or for the benefit of, GMS's clients as of December 26, 2018: (i) set forth the CUSIP number, principal amount of each series of Puerto Rico Securities, and the date(s) on which each such Puerto Rico Securities were acquired, at what price, and Identify any Document Concerning such acquisition, and (ii) Identify each Person with possession of such Puerto Rico Securities.

RESPONSE: See Exhibit A.

3. Describe the "GMS proprietary accounts" referenced in Paragraph 1 of the GMS Objection, including (a) the types of securities which may be purchased or held by such accounts, (b) the governance provisions of such accounts (and Identify any Document containing such governance provisions), (c) the Identity of Persons authorized to transact on behalf of such accounts (and Identify any Document evidencing such authority), and (d) the Identity of the Persons having beneficial ownership of such "GMS proprietary accounts."

RESPONSE: The "GMS" proprietary accounts" are trading/investment accounts of The GMS Group, LLC, a broker/dealer registered with the U.S. Securities and Exchange Commission. The accounts are designated by the firm as authorized to purchase and sell all types of municipal securities. In addition, see the attached Exhibit B.

For the accounts identified, the individuals authorized to engage in transactions for the accounts include the following individuals:

- Paul Konsig, President
 - Address: c/o The GMS Group LLC, 2600 Military Trail, Boca Raton, FL 33431
 - Phone Number: (561) 998-6500

- Email Address: PKonsig@gmsgroup.com
- Michael McKenna, Executive Vice President
 - Address: c/o The GMS Group LLC, 5N Regent Street, Suite 513, Livingston, NJ 07039
 - Phone Number: (973) 535-5000
 - Email Address: mmckenna@gmsgroup.com
- Jeffrey Lenzi, Senior Vice President
 - Address: c/o The GMS Group LLC, 2600 N. Military Trail, Suite 400, Boca Raton, FL 33431
 - Phone Number: (561) 998-6500
 - Email Address: jlenzi@gmsgroup.com
- Kurt Leimbach, Assistant Vice President
 - Address: c/o The GMS Group LLC, 2600 N. Military Trail, Suite 400, Boca Raton, FL 33431
 - Phone Number: (561) 998-6500
 - Email Address: kleimbach@gmsgroup.com

4. Describe the “5,000 retail client accounts” referenced in Paragraph 1 of the GMS Objection, including (a) the types of securities which may be purchased or held by such accounts, (b) the governance provisions of such accounts (and Identify any Document containing such governance provisions), (c) the Identity of Persons authorized to transact on behalf of such accounts (and Identify any Document evidencing such authority), and (d) the Identity of Persons having beneficial ownership of such “retail client accounts.”

RESPONSE: The “5,000 retail client accounts” referenced in Paragraph 1 of the GMS Objection was clarified by the Declaration of Timothy Donohue, Chief Operating Officer of The GMS Group, LLC dated January 7, 2019. *See* Dkt. 4641. The number of retail client accounts referred to the number of individual GMS’ client account security positions in the COFINA Junior Lien bonds. The actual number of GMS clients who owned COFINA

Junior Lien bonds was approximately 1,686 as of December 26, 2018. These accounts represent the securities brokerage accounts serviced by GMS and carried by its clearing agent, Pershing, LLC. None of these accounts are discretionary accounts and based on information and belief, only the clients themselves are authorized to engage in transactions for the client accounts. Each of the clients listed on the GMS account records is the beneficial owner of the COFINA bonds. In addition, *see* Exhibit A.

5. For each ballot GMS has cast to accept or reject the COFINA Plan on behalf of any Person, Identify any Document evidencing each authorization or direction to cast the ballot, and Describe the basis upon which GMS has the authority to cast the ballot.

RESPONSE: Each and every ballot GMS cast to accept or reject the COFINA Plan related only to GMS proprietary account positions. Timothy Donohue, COO and an authorized officer of the firm directed the casting of such ballots on behalf of GMS. GMS is unaware of any ballot cast for or on behalf of any person or entity, other than GMS itself.

6. Identify each Person that has held or currently holds COFINA Bonds, directly or indirectly, with whom GMS has acted or is acting in concert with to advance their common interests in the COFINA Title III Case.

RESPONSE:

- **Peter Hein**
 - **Address:** 51 W 52nd St, New York, NY 10019
 - **Phone Number:** (212) 403-1237
 - **Email Address:** PCHein@wlrk.com
- **Mark Elliott**
 - **Address:** c/o Elliott Asset Management, One International Place, Suite 1400, Boston, MA
 - **Phone Number:** Unknown to GMS
 - **Email Address:** c/o James Sparks; sparks@elliottam.com

- **Lawrence Dvores**
 - **Address: 28 Sherbrooke Parkway, Livingston, NJ 07039**
 - **Phone Number: (973) 535-5000**
 - **Email Address: LDvores@yahoo.com**
- **Arthur Samodovitz**
 - **Address: Unknown to GMS**
 - **Phone Number: Unknown to GMS**
 - **Email Address: Arthursail@stny.rr.com**
- **Additionally, GMS is communicating with, but not acting in concert with, Stephen T. Mangiaracina. The contact information that GMS has for Mr. Mangiaracina is as follows:**
 - **Address: 5 Salem Road, Hilton Head Island, SC 29928**
 - **Phone Number: (843) 785-5800**
 - **Email Address: stmangiaracina@aol.com**

7. Describe any action GMS took to intervene or otherwise participate as a party in the Adversary Proceeding or the Interpleader Action.

RESPONSE: None.

8. If GMS Communicated any request to participate in negotiations or mediation in connection with the Adversary Proceeding or the Interpleader Action, Identify each Person to whom such Communication was made and Describe each such Communication.

RESPONSE: None.

9. If GMS participated in negotiations or mediation in connection with the Adversary Proceeding or the Interpleader Action, Identify the Persons involved in such negotiations or mediation and each date on which such negotiations or mediation took place.

RESPONSE: Not applicable.

10. If GMS Communicated any request to participate in negotiations or mediation in connection with the Settlement Agreement or the COFINA Plan, Identify each Person to whom such Communication was made and Describe each such Communication.

RESPONSE: Not applicable.

11. Identify the Person(s) who wrote, or contributed to the writing of, the GMS Newsletter and the Person(s) to whom the GMS Newsletter was Shared or Communicated.

RESPONSE: The GMS Newsletter is proprietary to GMS and is shared only with GMS clients.

- **Paul Konsig**
 - **Address: 2600 Military Trail, Boca Raton, FL, 33431**
 - **Phone Number: (561) 998-6500**
 - **Email Address: PKonsig@gmsgroup.com**
- **Seema Balwada**
 - **Address: c/o The GMS Group LLC, 5N Regent Street, Suite 513, Livingston, NJ 07039**
 - **Phone Number: (646) 345-2955**
 - **Email Address: sbalwada@gmsgroup.com**

12. Describe how and in what manner the information contained in the GMS Newsletter was validated as factually accurate, including but not limited to Identifying the Documents or other materials used.

RESPONSE: See attached Exhibit C.

Dated: New York, New York

January 14, 2019

GODREAU & GONZALEZ LAW, LLC

By: /s/ Rafael A. González Valiente
Rafael A. González Valiente

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VERIFICATION OF INTERROGATORY ANSWERS

I, Timothy J. Donohue, am Chief Operating Officer of The GMS Group, LLC. I believe, based on reasonable inquiry, that the foregoing answers are true and correct to the best of my knowledge, information and belief.

I verify under penalty of perjury that the foregoing is true and correct.

Dated: January 11, 2019

Livingston, New Jersey


